

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

VIRGINIA BAGLEY, §
Plaintiff, §
§
v. § CIVIL ACTION NO. 1:18-cv-00580
§ JURY TRIAL DEMANDED
DOLLAR TREE STORES, INC., §
Defendant. §

**DEFENDANT DOLLAR TREE STORES, INC.'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441, Federal Rule of Civil Procedure 81, and Local Rule 81, Defendant DOLLAR TREE STORES, INC. (hereinafter "DOLLAR TREE") hereby removes to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), DOLLAR TREE sets forth the following "short and plain statement of the grounds for removal."

A. THE REMOVED CASE

1. The removed case is a civil action filed with the 136th Judicial District Court of Jefferson County, Texas, on or about October 1, 2018, styled *Virginia Bagley v. Dollar Tree Stores, Inc.*; Cause No. D-202654 (the "State Court Action"). The case arises from an alleged injury sustained by Plaintiff, Virginia Bagley, on or about November 27, 2016 while at a Dollar Tree store located in Beaumont, Jefferson County, Texas.

B. DOCUMENTS FROM REMOVED ACTION

2. Pursuant to Local Rule 81 and 28 U.S.C. 1446(a), DOLLAR TREE attaches the following documents to this Notice of Removal as Exhibit "A":
- i. Index of Matters Being Filed;
 - ii. All executed process in the case;
 - iii. Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings;
 - iv. The docket sheet; and
 - v. A list of all counsel of record, including addresses, telephone numbers and parties presented.

C. REMOVAL PROCEDURE

3. Except as otherwise expressly provided by Act of Congress, any civil action brought in a State Court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the place where the action is pending. 28 U.S.C. § 1441. The Beaumont Division of the Eastern District Court of Texas is the United States district and division embracing Jefferson County, Texas, the county in which the State Court Action is pending.

4. DOLLAR TREE STORES, INC. was served with a copy of Plaintiff's Original Petition, ("Petition") on October 11, 2018, through its registered agent. Therefore, this Notice of Removal is filed within the time limits specified in 28 U.S.C. § 1446(b).

5. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings and orders in the State Court Action as of the date of this pleading are attached hereto as *Exhibit "A"* and incorporated herein for all purposes.

6. DOLLAR TREE will promptly give all parties written notice of the filing of this Notice of Removal and will promptly file a copy of this Notice of Removal with the Clerk of the 136th Judicial District Court of Jefferson County, Texas, where the action is currently pending.

D. VENUE IS PROPER

7. The United States District Court for the Eastern District of Texas is the proper venue for removal of the state court action pursuant to 28 U.S.C. § 1441(a) because the 136th Judicial District Court of Jefferson County, Texas, is located within the jurisdiction of the United States District Court for the Eastern District of Texas, Beaumont Division.

E. COMPLETE DIVERSITY OF CITIZENSHIP EXISTS

8. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

9. As admitted in her Petition, Plaintiff is an individual who resides in Jefferson County, Texas.¹

¹ See Pl. Original Petition at ¶ III.

10. Defendant DOLLAR TREE STORES, INC. is a foreign corporation organized and existing under the laws of the State of Virginia.

11. Because Plaintiff is a resident of the State of Texas and Defendant is not, complete diversity of citizenship exists pursuant to 28 U.S.C. § 1332.

F. THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

12. Plaintiff alleges in her Original Petition that she seeks monetary relief between \$200,000 and \$1,000,000.² Plaintiff also seeks to recover damages against DOLLAR TREE for: (a) past and future medical expenses; (b) past and future mental anguish; (c) past and future pain and suffering; (d) past and future disfigurement; (e) past and future physical impairment; and (f) loss of earnings in the past and loss of earning capacity in the future.

13. Based on the aforementioned facts, the current state court action may be removed to this Court by DOLLAR TREE in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the Eastern District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy exceeds \$75,000, exclusive of interest and costs.

G. FILING OF REMOVAL PAPERS

Pursuant to 28 U.S.C. § 1446(d), DOLLAR TREE is providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy of this Notice

² See Pl. Original Petition at ¶ II.

with the Clerk of the 136th Judicial District Court of Jefferson County, Texas, in which this action was originally commenced.

H. CONCLUSION

Defendant, DOLLAR TREE STORES, INC., hereby removes the above-captioned action from the 136th Judicial District of Jefferson County Texas, and requests that further proceedings be conducted in the United States District Court for the Eastern District of Texas, Beaumont Division, as provided by law.

Respectfully submitted,

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